

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

USCA Docket Number:

USDC Docket Number : 05-cv-10618

Raul P. Gonsalves

v.

Michael Thompson

CLERK'S CERTIFICATE

I, Sarah A. Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 2/6/2006.

In testimony whereof, I hereunto set my hand and affix the seal of this Court on March 2, 2006.

Sarah A Thornton, Clerk of Court

By:

Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 3/3/06

D. Burchard
Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

APPEAL

**United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:05-cv-10618-RCL**

Gonsalves v. Thompson et al
Assigned to: Judge Reginald C. Lindsay
Cause: 28:2254 Petition for Writ of Habeas Corpus
(State) Date Filed: 03/14/2005
Jury Demand: None
Nature of Suit: 530 Habeas
Corpus (General)
Jurisdiction: Federal Question

Petitioner

Raul Gonsalves

represented by **Raul Gonsalves**
W-137741
Bristol County House of
Correction
GC-43
400 Faunce Corner Road
North Dartmouth, MA 02210
PRO SE

V.

Respondent

Michael Thompson
Superintendent MCI Shirley

represented by **Eva M. Badway**
Attorney General's Office
One Ashburton Place
Boston, MA 02108-1698
617-727-2200 x2824
Fax: 671-727-5755
Email:
eva.badway@ago.state.ma.us
ATTORNEY TO BE NOTICED

Respondent

Reilly
Attorney General
TERMINATED: 05/27/2005

Date Filed	#	Docket Text
03/14/2005	①	MOTION for Leave to Proceed in forma pauperis by Raul Gonsalves.(Jenness, Susan) (Entered: 03/30/2005)
03/14/2005	②	PETITION for writ of habeas corpus pursuant to 28:2254 \$ 0.00, receipt number 0.00, filed by Raul Gonsalves.(Jenness, Susan) (Entered: 03/30/2005)
03/14/2005	③	MEMORANDUM OF LAW by Raul Gonsalves to 2 Petition for writ of habeas corpus (28:2254). (Jenness, Susan) (Entered: 03/30/2005)
03/14/2005	④	MOTION for an Evidentiary Hearing by Raul Gonsalves. (Jenness, Susan) (Entered: 03/30/2005)
03/14/2005	⑤	MOTION to Appoint Counsel by Raul Gonsalves.(Jenness, Susan) (Entered: 03/30/2005)
03/14/2005	⑥	If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge New Magistrate Judge. (Jenness, Susan) (Entered: 03/30/2005)
04/22/2005	⑦	Judge Reginald C. Lindsay : ORDER entered denying 1 Motion for Leave to Proceed in forma pauperis. It is ORDERED that the application to proceed without prepayment of fees is DENIED. Petitioner has sufficient funds to pay the \$5.00 filing fee. It is FURTHER ORDERED that petitioner must pay the \$5.00 filing fee within thirty (30) days of the date of this Order, or this action will be subject to dismissal. (McGlamery, Jeanette) (Entered: 04/25/2005)
05/06/2005	⑧	Filing fee: \$ 5.00, receipt number 64011 regarding Payment for Habeas Corpus (Stanhope, Don) (Entered: 05/09/2005)
05/20/2005	⑨	MOTION for Expedited Decision filed by Raul Gonsalves. (Stanhope, Don) (Entered: 05/23/2005)
05/27/2005	⑩	Judge Reginald C. Lindsay : Electronic ORDER entered. PROCEDURAL ORDER. The Clerk shall correct the case caption to reflect that the only respondent to this action is Michael Thompson. A writ of habeas corpus must be "directed to the person having custody of the person detained." 28 U.S.C. s 2243. Petitioner's legal custodian is the superintendent of MCI Shirley, the individual having day-to-day control over the facility in which the petitioner is being detained. Rumsfeld

		v. Padilla, --U.S.--, 124 S. Ct. 2711, 2720 (2004); Vasquez v. Reno, 233 F.3d 688, 694 (1st Cir. 2000), cert. denied, sub nom. Vasquez v. Ashcroft, 122 S. Ct. 43 (2001). (McGlamery, Jeanette) (Entered: 05/27/2005)
05/27/2005	⑨	Judge Reginald C. Lindsay : ORDER entered. SERVICE ORDER re 2254 Petition. Order entered pursuant to R.4 of the Rules governing Section 2254 cases for service on respondents. Answer/responsive pleading due w/in 20 days of rcpt of this order.(McGlamery, Jeanette) (Entered: 05/27/2005)
05/27/2005	⑩	Judge Reginald C. Lindsay : Electronic ORDER entered. The motion <u>7</u> of the petitioner for expedited review of his petition under 28 U.S.C. s 2254 is hereby denied WITHOUT PREJUDICE. The court has ordered that the petition be served on the respondent and that the respondent file an answer or responsive pleading days within twenty days of receiving the petition. (McGlamery, Jeanette) (Entered: 05/27/2005)
06/10/2005	⑪	MOTION for Reconsideration re [8] Procedural Order to name only Michael Thompson as Respondent, FILED by Raul Gonsalves.(Flaherty, Elaine) (Entered: 06/13/2005)
06/22/2005	⑫	RESPONSE/ANSWER to <u>2</u> Petition for writ of habeas corpus (28:2254) by Michael Thompson. (Badway, Eva) (Entered: 06/22/2005)
06/22/2005	⑬	MOTION to Dismiss by Michael Thompson.(Badway, Eva) (Entered: 06/22/2005)
06/22/2005	⑭	MEMORANDUM in Support re <u>13</u> MOTION to Dismiss filed by Michael Thompson. (Badway, Eva) (Entered: 06/22/2005)
06/22/2005	⑮	NOTICE by Michael Thompson of <i>Filings With the Clerk's Office</i> (Badway, Eva) (Entered: 06/22/2005)
06/23/2005	⑯	SUPPLEMENTAL ANSWER by Michael Thompson.(Abaid, Kim) (Entered: 06/23/2005)
07/01/2005	⑰	Opposition re <u>13</u> MOTION to Dismiss filed by Raul Gonsalves. (Smith, Bonnie) (Entered: 07/05/2005)
07/01/2005	⑱	MEMORANDUM OF LAW by Raul Gonsalves to <u>17</u> Opposition to Motion. (Smith, Bonnie) (Entered: 07/05/2005)
07/01/2005	⑲	EXHIBIT re <u>17</u> Opposition to Motion filed by Raul Gonsalves,, <u>18</u> Memorandum of Law filed by Raul Gonsalves, by Raul Gonsalves. (Smith, Bonnie) (Entered: 07/05/2005)

07/19/2005	•20	Return receipt received for mail sent to Cathryn Neaves of One Ashburton Place Boston MA 02108 Delivered on 06/02/05 (York, Steve) (Entered: 07/19/2005)
08/09/2005	•21	MOTION to Expedite Appointment of Counsel by Raul Gonsalves.(York, Steve) (Entered: 08/09/2005)
10/03/2005	•22	Motion for Addition Service of All Papers to be Served on the Petitioner's Power of Attorney by Raul Gonsalves.(York, Steve) Additional attachment(s) added on 10/4/2005 (York, Steve). (Entered: 10/04/2005)
10/07/2005	•23	Letter/request (non-motion) from Raul Gonsalves. (York, Steve) . (Entered: 10/11/2005)
10/18/2005	•24	NOTICE of Change of Address by Raul Gonsalves (York, Steve) (Entered: 10/18/2005)
10/24/2005	•25	Judge Reginald C. Lindsay : ORDER entered denying [11 MOTION for Reconsideration re Procedural Order to name only Michael Thompson as Respondent, FILED by Raul Gonsalves and granting <u>13</u> Respondent's Motion to Dismiss. The reasons for these rulings are set forth in the accompanying memorandum and order. Thirty days from the date of this order, the clerk shall enter a final order of dismissal of this action and shall terminate this case on the docket of the court if the petitioner has not fulfilled the requirements for maintaining this action, as set forth in the accompanying memorandum and order. (Lindsay, Reginald) (Entered: 10/24/2005)
10/24/2005	•	Judge Reginald C. Lindsay : Electronic ORDER entered finding as moot <u>4</u> MOTION for an Evidentiary Hearing by Raul Gonsalves; finding as moot <u>5</u> Motion of Raul Gonsalves to Appoint Counsel; finding as moot <u>21</u> MOTION to Expedite Appointment of Counsel by Raul Gonsalves; and finding as moot <u>22</u> Motion for Addition Service of All Papers to be Served on the Petitioner's Power of Attorney by Raul Gonsalves. All of the foregoing motions are mooted by the order of the court of this date, dismissing this action (docket entry 25). (Lindsay, Reginald) (Entered: 10/24/2005)
11/09/2005	•26	Renewed Motion for Expedite Decision by Raul Gonsalves. (York, Steve) (Entered: 11/09/2005)
11/29/2005	•	Judge Reginald C. Lindsay : Electronic ORDER entered finding as moot <u>26</u> Petitioner's Motion to Expedite Decision in

		light of memorandum and order issued as document 25 on October 24, 2005. (Lindsay, Reginald) (Entered: 11/29/2005)
11/29/2005	●	Judge Reginald C. Lindsay : Electronic ORDER DISMISSING CASE. On October 24, 2005, the court entered a conditional order dismissing the petition in this case pursuant to the respondent's motion, which asserted that the petitioner had not exhausted his state remedies before bringing the petition. In the memorandum accompanying the conditional order dismissing the petition, the court ruled that certain of the petitioner's claims had been exhausted, while others had not been exhausted. The court's order directed the petitioner to advise the court, not later than 30 days from the date of the order, whether the petitioner would proceed in the present case with his exhausted claims. In its order the court said: "At the conclusion of the thirty (30) days, unless this court has been advised of Petitioner's intention to proceed with his exhausted claims, this conditional order of dismissal will become final." To date, which is more than 30 days from the date of the conditional order, the petitioner has not advised the court whether he intends to proceed here with his exhausted claims. Accordingly, the conditional order of October 24, 2005 is hereby made final. The clerk shall enter judgment for the respondent and terminate this case on the court's docket. (Lindsay, Reginald) (Entered: 11/29/2005)
11/30/2005	● 27	Judge Reginald C. Lindsay : ORDER entered. JUDGMENT in favor of respondent against petitioner(Hourihan, Lisa) (Entered: 11/30/2005)
12/13/2005	●	Mail Returned as Undeliverable. Mail sent to Raul Gonsalves (York, Steve) (Entered: 12/13/2005)
12/20/2005	● 28	Letter/request (non-motion) from Raul P. Gonsalves. (York, Steve) (Entered: 12/20/2005)
12/20/2005	●	DOCKET SHEET sent to Raul P. Gonsalves. (York, Steve) (Entered: 12/20/2005)
01/03/2006	● 29	MOTION to Reopen Case by Raul Gonsalves.(York, Steve) (Entered: 01/04/2006)
01/30/2006	●	Judge Reginald C. Lindsay : Electronic ORDER entered denying 29 Motion to Reopen Case (Hourihan, Lisa) (Entered: 01/30/2006)

02/06/2006	<u>30</u>	NOTICE OF APPEAL by Raul Gonsalves. NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 2/27/2006. (York, Steve) (Entered: 02/07/2006)
02/09/2006	<u>31</u>	Letter from Raul Gonsalves. (York, Steve) (Entered: 02/09/2006)
02/10/2006	<u>32</u>	MOTION for Certificate of Appealability by Raul Gonsalves. (York, Steve) (Entered: 02/10/2006)